

Message Text

LIMITED OFFICIAL USE

PAGE 01 MADRID 06155 250805Z

20

ACTION L-03

INFO OCT-01 EUR-25 ISO-00 SCA-01 VO-03 PPT-02 JUSE-00

RSC-01 DRC-01 /037 W

----- 072303

R 241649Z OCT 73

FM AMEMBASSY MADRID

TO SECSTATE WASHDC 7044

LIMITED OFFICIAL USE MADRID 6155

E.O. 11652: N/A

TAGS: CGEN SP

SUBJ: SUPPLEMENTARY EXTRADITION TREATY WITH SPAIN

REF: STATE 190629

1. PRIOR TO APPROACHING MKA ON EXTRADITION TREATY, WE
SUBMIL FOR DEPARTMENT CONSIDERATION FOLLOWING POINTS
R
RAISED BY REFLEL.

2. OUR PURPOSE IN PROPOSING AMENDING 1970 EXTRADITION
TREATY WAS TO PROVIDE VORE TIME FOR PROCESSING OF
EXTRADITION DOCUMENTS. BOTH THE US AND GOS HAVE AGREED
TO EXTENSION OF PREVENTIVE DETENTION TO 45 DAYS, AND
GOS HAS EXPRESSED READINESS TO CONSIDER 60 DAYS. REFTL
POINTS OUT, HOWEVER, THAT WE CANNOT EXPECT COURTS IN
US TO HOLD FUGITIVES WITHOUT BAIL FOR MORE THAN 45 DAYS IN
CASE OK REQUEST FOR EXTRADITION EMANATING FROM SPAIN.
THE QUESTION, THEN: IS WHETHER OR NOT WE SHOULD TRY TO
OBTAIN SPANISH AGREEMENT FOR 60 DAYS FOR A REQUEST FOR
EXTRADITION EMANATICG FROM THE US AND 45 DAYS FOR A
REQUEST FOR EXTRADITION EMANATING FROM SPAIN, I.E., 60
DAYS FOR DOCUMENTS COMING FROM THE US AND 45 DAYS FOR
DOCUMENTS COMING FROM SPAIN.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 MADRID 06155 250805Z

3. AS REKTEL NOTES, SPAIN INSISTED AS A MATTER OF PRINCIPLE

(EQUAL DIGNITIES) ON THE INSERTION OF WORDING IN PARA F OF ARTICLE X OF THE 1970 EXTRADITION AGREEMENT REQUIRING CERTIFICATION OF US DOCUMENTS BY THE SPANISH EMBASSY EVEN THOUGH SUCH CERTIFICATION WAS NOT REQUIRED BY SPANISH LAW. THE US ACCEDED TO THE SPANISH POSITION BASED ON THIS PRINCIPLE. WERE WE NOW TO PROPOSE TWO DIFFERENT TIME

FRAMES FOR THE SUBMISSION OF DOCUMENTS, AS SUGGESTED IN PARA 6 REFTEL, MFA WOULD UNDOUBTEDLY RESORT TO SAME ARGUMENT OF EQUAL DIGNITIES TO BACK DOWN ON ITS EARLIER READINESS TO ACCEPT 60 DAYS. HAVING ONCE ACCEDED TO SPANISH SENSITIVITY ON THIS POINT IN EXTRADITION TREATY, IT MIGHT BE OFFENSIVE TO SPANISH FOR US TO REOPEN THE MATTER. WE RECOMMEND THEREFORE THAT 45-DAY TIME FRAME BE PROPOSED FOR BOTH SIDES. SAME LINE OF REASONING WOULD ARGUE AGAINST ANY EFFORT TO SEEK DELETION OF LANGUAGE IN PARA F OF ARTICLE X REQUIRING CERTIFICATION OF US DOCUMENTS BY SPANISH AMBASSY.

4. PROPOSED REVISED WORDING PARA D OF ARTICLE XI (REFTEL), WHILE INCORPORATING IDEA OF DATING PERIOD OF PREVENTIVE DETENTION FROM TIME OF DIPLOMATIC COMMUNICATION OF SUCH DETENTION, LEAVES SOME ROOM FOR POSSIBLE CONTROVERSY ABOUT EXACT DATE. WE WOULD SUGGEST INSTEAD THAT REVISED SENTENCE READ AS FOLLOWS: "A PERSON ARRESTED UPON SUCH AN APPLICATION SHALL BE SET AT LIBERTY UPON THE EXPIRATION OF 45 DAYS FROM THE DATE WHEN THE EMBASSY OF THE COUNTRY SEEKING EXTRADITION IS INFORMED THROUGH DIPLOMATIC CHANNELS OF THE FACT OF HIS ARREST IF A REQUEST FOR HIS EXTRADITION ACCOMPANIED BY THE DOCUMENTS SPECIFIED IN ARTICLE X SHALL NOT HAVE BEEN RECEIVED".

5. RE SPANISH PROPOSAL TO APPLY PERIOD OF PREVENTIVE DETENTION TO FULFILLMENT OF SENTENCE IMPOSED ON PERSON EXTRADITED, WE BELIEVE VFA WILL BE GRATIFIED TO LEARN THAT USUAL PRACTICE OF JUDGES IN US IS TO FOLLOW THIS PRACTICE. AT SAME TIME, MFA WILL UNDOUBTEDLY ASK US TO EXPLAIN WHY SUCH A PROVISION COULD NOT BE INCLUDED IN EXTRADITION TREATY, INASMUCH AS PARA 2 OF ARTICLE VI OF US CONSTITUTION PRESCRIBES THAT JUDGES WILL BE BOUND BY TREATIES WHICH ARE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 MADRID 06155 250805Z

SUPREME LAW OF THE LAND. THUS, WE CANNOT SAY THAT EXECUTIVE BRANCH LACKS POWER TO BIND JUDGES. WE WOULD THEREFORE APPRECIATE FURTHER DEPARTMENT VIEWS ON THIS ASPECT.

6. IN LIGHT OF FOREGOING, REQUEST GUIDANCE FOR PURSUING THIS MATTER WITH MFA.
RIVERO

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 24 OCT 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973MADRID06155
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: MADRID
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731015/aaaaakrk.tel
Line Count: 114
Locator: TEXT ON-LINE
Office: ACTION L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: STATE 190629
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 01 OCT 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <01-Oct-2001 by kelleyw0>; APPROVED <30-Nov-2001 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: SUPPLEMENTARY EXTRADITION TREATY WITH SPAIN
TAGS: CGEN, SP
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005